

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 24 Protection of Privacy

Subject: 24.1 Privacy Act and Health Insurance Portability and Accountability Act (HIPAA)

PURPOSE: This standard practice (SP) describes Laboratory procedures to comply with the Privacy Act and the Health Portability and Accountability Act (HIPAA).

POLICY: The Laboratory will comply with the Privacy Act of 1974 when it subcontracts for the design, development, or operation of a system of records on individuals on behalf of DOE.

SCOPE: This SP applies to all subcontracts that involve the design, development, or operation of a system of records on individuals or access to or generation of protected health information.

DEFINITIONS:

Health Insurance Portability and Accountability Act (HIPAA)

HIPAA is a federal law pertaining to privacy requirements for individually identifiable protected health information.

Privacy Act of 1974

The Privacy Act of 1974 (the Act) is a federal law that provides for protection of the security of personal information.

Protected Health Information

Protected health information is any individually identifiable information, whether oral or recorded in any form or medium, that:

- Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

Protected health information excludes individually identifiable employment records held by the Laboratory in its role as an employer.

Examples of services that may involve protected health information are: vision care (excluding work-related eye examinations), medical diagnosis or treatment, counseling, medical consultation, psychiatric consultation, maintenance or repair of medical equipment and instruments, and third-party administrative services (medical records, billings, etc.).

System of Records

A system of records on individuals is a group of any records under the control of the Laboratory from which information is retrieved by the name of an individual or by some identifying

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number, symbol, or identifying particular assigned to an individual.

PROCEDURES – PRIVACY ACT:

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| Determination | Purchase requests and statements of work must be reviewed to identify subcontracts that involve the design, development, or operation of a system of records on individuals. |
| Statement of Work | All solicitations and subcontracts subject to the Act must clearly identify in the statement of work the system of records on individuals and the design, development, or operation work to be performed. |
| Clauses | <p>All written solicitations and subcontracts that involve the design, development, or operation of a system of records on individuals shall include the following Prime Contract clauses:</p> <ul style="list-style-type: none">• I.31, <i>Privacy Act Notification</i> (FAR 52.224-1) and• I.32, <i>Privacy Act</i> (FAR 52.224-2). |

PROCEDURES – HIPAA:

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| Determination | Purchase requests and statements of work must be reviewed by LBNL Health Services to identify subcontracts that involve access to or the generation of protected health information. |
| Clauses | <p>All subcontracts for services involving access to or the generation of protected health information as determined by LBNL Health Services shall include provisions requiring the protection of the protected health information.</p> <p>New subcontracts for services involving health information shall incorporate by reference a HIPAA Requirements Agreement attachment. The attachment is available in the Procurement Server's Formcab document folder.</p> <p>Existing subcontracts or blanket agreements for services involving health information that do not incorporate by reference a HIPAA Requirements Agreement attachment shall be modified using the bilateral HIPAA Requirements Amendment form. The form is available in the Procurement Server's Formcab document folder</p> |

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RESPONSIBILITIES:

**Procurement
Specialist**

Regarding Privacy Act requirements, the procurement specialist must:

- Identify proposed subcontracts that are subject to the Privacy Act;
- Ensure that applicable statements of work identify the system of records; and
- Include the *Privacy Act* clauses in applicable solicitations and subcontracts.

Regarding HIPAA requirements, the procurement specialist must:

- Identify proposed subcontracts that are subject to HIPAA;
- Incorporate by reference a HIPAA Requirements Agreement attachment in applicable solicitations and subcontracts; and
- Modify existing subcontracts for services involving health information that do not incorporate by reference a HIPAA Requirements Agreement attachment by use of the bilateral HIPAA Requirements Amendment form.

REFERENCES:

Prime Contract Clause I.31 - Privacy Act Notification

Prime Contract Clause I.32 - Privacy Act